

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

John S. Bryan, *Individually and as*
Personal Representative of the Estate
of April Bryan; Estate of April Bryan

Plaintiff,

vs.

Fulmer Helmets, Inc.,

Defendant.

) Civil Action No.: 8:10-793-RBH-BHH
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)
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)

REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
FOR PARTIAL SUMMARY DISMISSAL

The plaintiffs in this civil action are proceeding *pro se*.¹ The Complaint was filed by John S. Bryan individually and as the personal representative of the Estate of April Bryan ("the Estate").

Pursuant to this Court's Order [Doc. 8] dated March 30, 2010, the pro-se plaintiff was notified that he may not represent the Estate in this civil action and was given thirty-four (34) days in which to have counsel appear on the Estate's behalf in this matter. On May 6, 2010, pursuant to an Order [Doc. 13] granting the plaintiff's request for an extension of time, the Estate was granted additional time until June 8, 2010, to obtain counsel. On June 15, 2010, another Order [Doc. 15] was issued warning John S. Bryan that the Estate would have until July 9, 2010, to obtain counsel and that a failure to do so, may result in dismissal of the Estate's case without prejudice. The Estate has neither requested additional time to secure an attorney, nor has an attorney appeared on its behalf.

¹ Under Local Rule 73.02(B)(2), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

A non-attorney individual may not represent an estate. See, e.g., *Pridgen v. Andresen*, 113 F.3d 391, 392-93 (2nd Cir. 1997). While there may be an exception to such rule, see *Witherspoon v. Jeffords Agency, Inc.*, 88 Fed. Appx. 659, 659 (4th Cir. 2004), Bryan has failed to offer evidence that this situation meets it or to otherwise be responsive to the Court concerning the matter. Because no attorney has been retained to represent the Estate, it is recommended that the Estate be dismissed as a plaintiff in this case.

Recommendation

Accordingly, it is recommended that the Estate of April Bryan be dismissed from this case *without prejudice* to its ability to refile the matter at a later time. John S. Bryan remains as the *pro se* plaintiff in this action.

s/Bruce Howe Hendricks
United States Magistrate Judge

July 20, 2010
Greenville, South Carolina

The plaintiff's attention is directed to the important notice on the next page.